

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

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In the Matter of the Claims of S.A., Claimant vs. NORTH LOS ANGELES REGIONAL CENTER, Service Agency.	OAH Nos. 2003060784, 785
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DECISION

These two cases, consolidated for hearing because of an identity of parties, and an asserted similarity of issues, was tried before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings at Los Angeles, California on August 5, 2003.

Celia Lopez, designee, represented the Service Agency. S.A., claimant, appeared by his mother and natural guardian, C.A., who was represented by Ricardo Villegas, lay advocate of the Client Assistance Program of the Independent Living Center of Southern California, who, in turn, was assisted by his supervisor, Mr. Peter Huard.

ISSUES: Is the Service Agency obliged to fund the services of a full-time attendant for claimant in his employment in his mother's enterprise, (Case ***** 784) or of an one:one aide at such employment for the purpose of completing job-related tasks (Case*****785)?

The parties presented oral and documentary evidence and submitted these matters for decision. The Administrative Law Judge finds, concludes and disposes of these cases as follows:

Findings of Fact

1. S.A. is a 19 year old young man with a regional center qualifying diagnosis of cerebral palsy. He has very limited use of his hands and arms. He has no articulation in his shoulder, elbows and wrists, and cannot grasp with his hands.

2. He needs help with all of his activities of daily living, including eating, hygiene and toileting.

3. Notwithstanding all of his difficulties, he is a pleasant, articulate young man. He is computer literate. He likes to go to the mall and movies with friends. He likes to read, listen to music, write and go on line with his computer. He has a circle of friends, including a girlfriend. He wants to be able to live and to work independently.

4. S.A.'s mother runs a service business, offering to the public various devices to assist people in arranging their several artifacts within their homes, so that they can live in a reasonably clutter-free environment, yet have their possessions readily available to them. She has been running this business out of her home. Recently she obtained space at another location for a sales room, where S.A. was placed to meet with the public and answer questions. She, however, continued to work at home, and the thought was that an aide could make S.A.'s independent employment possible for an eight-to-five stretch.

5. However this may be, it appears that little thought has been given as to the specific, exact services S.A. might require to support him in such employment as he might be given in his mother's enterprise. An inventory of his needs should be made in order to formulate a reasonably specific request. As yet, this has not been done.

6. Certain alternate resources to regional center funding have been suggested. The Department of Rehabilitation has denied services under its regulations because it found that "comparable services and benefits" existed which S.A. could use, and left him to avail himself of his regional center services. However, incidental personal care services are available to claimant and his family (up to 45 minutes in a four hour period presently), and the attention of the planning committee should be given to the possibility of placing S.A. in the business's home office, and assigning him office work involving the use of the telephone, and computer technology. Also, as has been suggested, a reasonable course of action might be to conduct an occupational therapy assessment for the purpose of determining if claimant could possibly benefit from adaptive equipment that might serve to increase his independence in meeting his needs in activities of daily living.

7. In planning for possible employment opportunities, consideration will have to be given to meeting S.A.'s perceived needs. Preliminary discussions concerning this have drawn the criticism that certain activities amount to "job-sharing", a function that should be compensated by the employer. Any service which will support the claimant in the performance of his job can be compensated for by In Home Supportive Services. The statute (Section 12300(d)(2) of the Welfare and Institutions Code) provides only service thus funded be "...relevant and necessary in supporting and maintaining employment." Thus, a close examination by the planning committee is needed to apply this concept both to claimant's abilities and his limitations, so that the IHSS request is truly custom made.

Conclusions of Law

In light of the foregoing Findings of Fact, it is concluded that at the present time, insufficient planning has occurred with respect to claimant's basic request that he be trained in job skills he needs to support his desire to live and work independently (see Section 4512(b) of the Lanterman Act). Under these circumstances, Service Agency's denial of claimant's requests for funding for an assistant or aide is premature. Claimant and his family need to refine their requests, and further planning needs be done by service agency.

The action of the Service Agency in denying claimant's request should be vacated and the matter should be remanded to the Service Agency for further consideration by all parties consistent with the views expressed herein. However, as to the issues raised by claimant's requests, and by the Service Agency's Notices of Proposed Action, this decision shall be the final administrative decision as to those issues, and the parties shall be bound thereby. Either party may appeal this final decision to a court of competent jurisdiction within 90 days of receiving notice thereof.

Order

IT IS SO ORDERED.

August 14, 2003

Paul M. Hogan
Administrative Law Judge
Office of Administrative Hearings